

IC 22-4-13

Chapter 13. Improper Payments

IC 22-4-13-1

Benefits; fraud; mistake; collection

Sec. 1. (a) Any individual who makes, or causes to be made by another, a false statement or representation of a material fact knowing it to be false or knowingly fails, or causes another to fail, to disclose a material fact, and as a result thereof has received any amount as benefits to which the individual is not entitled under this article, shall be liable to repay such amount to the commissioner for the unemployment insurance benefit fund or to have such amount deducted from any benefits otherwise payable to the individual under this article, within the six (6) year period following the date of the filing of the claim or statement that resulted in the payment of such benefits, if the existence of such misrepresentation or nondisclosure has become final by virtue of an unappealed determination of a deputy, or a decision of an administrative law judge, or the review board, or by a court of competent jurisdiction.

(b) Any individual who, for any reason other than misrepresentation or nondisclosure as specified in subsection (a), has received any amount as benefits to which the individual is not entitled under this article or because of the subsequent receipt of income deductible from benefits which is allocable to the week or weeks for which such benefits were paid becomes not entitled to such benefits under this article shall be liable to repay such amount to the commissioner for the unemployment insurance benefit fund or to have such amount deducted from any benefits otherwise payable to the individual under this article, within the three (3) year period following the date of the filing of the claim or statement that resulted in the payment of such benefits, if the existence of such reason has become final by virtue of an unappealed determination of a deputy or a decision of an administrative law judge, or the review board, or by a court of competent jurisdiction.

(c) When benefits are paid to an individual who was eligible or qualified to receive such payments, but when such payments are made because of the failure of representatives or employees of the department to transmit or communicate to such individual notice of suitable work offered, through the department, to such individual by an employing unit, then and in such cases, the individual shall not be required to repay or refund amounts so received, but such payments shall be deemed to be benefits improperly paid.

(d) Where it is finally determined by a deputy, an administrative law judge, the review board, or a court of competent jurisdiction that an individual has received benefits to which the individual is not entitled under this article, the commissioner shall relieve the affected employer's experience account of any benefit charges directly resulting from such overpayment. However, an employer's experience account will not be relieved of the charges resulting from an overpayment of benefits which has been created by a retroactive

payment by such employer directly or indirectly to the claimant for a period during which the claimant claimed and was paid benefits unless the employer reports such payment by the end of the calendar quarter following the calendar quarter in which the payment was made or unless and until the overpayment has been collected. Those employers electing to make payments in lieu of contributions shall not have their account relieved as the result of any overpayment unless and until such overpayment has been repaid to the unemployment insurance benefit fund.

(e) Where any individual is liable to repay any amount to the commissioner for the unemployment insurance benefit fund for the restitution of benefits to which the individual is not entitled under this article, the amount due may be collectible without interest by civil action in the name of the state of Indiana, on relation of the department, which remedy by civil action shall be in addition to all other existing remedies and to the methods for collection provided in this section.

(f) Liability for repayment of benefits paid to an individual (other than an individual employed by an employer electing to make payments in lieu of contributions) for any week may be waived upon the request of the individual if:

- (1) the benefits were received by the individual without fault of the individual;
- (2) the benefits were the result of payments made during the pendency of an appeal before an administrative law judge or the review board under IC 22-4-17 under which the individual is determined to be ineligible for benefits; and
- (3) repayment would cause economic hardship.

(Formerly: Acts 1947, c.208, s.1301; Acts 1953, c.177, s.13; Acts 1957, c.129, s.1; Acts 1971, P.L.355, SEC.28; Acts 1973, P.L.239, SEC.4.) As amended by Acts 1979, P.L.229, SEC.2; P.L.228-1983, SEC.3; P.L.18-1987, SEC.40; P.L.135-1990, SEC.2; P.L.21-1995, SEC.77; P.L.290-2001, SEC.6.

IC 22-4-13-2 Repealed

(Repealed by P.L.129-1984, SEC.4.)

IC 22-4-13-3

Overpayments due to retroactive labor awards; offset and remission

Sec. 3. If an overpayment of benefits is created by a retroactive payment by the employer for:

- (1) awards by the National Labor Relations Board of additional pay, backpay, or for loss of employment;
- (2) any payments made under an agreement entered into by an employer, either a union or an employee, and the National Labor Relations Board; or
- (3) payments to an employee by an employing unit made pursuant to the terms and provisions of the Fair Labor Standards Act;

and the employer offsets all or part of the overpaid benefits against the award, the employer shall remit the amount offset to the division.
As added by P.L.20-1986, SEC.8.